

RECEIVED  
CENTRAL FAX CENTER

MAY 21 2004

OFFICIAL



MILES &amp; STOCKBRIDGE P.C.

1751 Pinnacle Drive, Suite 500, McLean, VA 22102-3833 • 703.903.9000 • Fax: 703.610.8686

To Examiner J. Kang

Fax no. 703-872-9306 (Central Fax)

Phone no.

From Mitchell W. Shapiro

Phone no. 703-610-8652

Date May 21, 2004

Time

File no. Our Ref: A-9001D

Pages including cover 3

Re: Appln. No.: 10/082,290; GAU: 2874

Confidentiality Notice - The information in this transmission is intended only for the individual or entity named above. It may be legally privileged and confidential. If you have received this information in error, notify us immediately by calling our operator at the number set forth below. Send the original transmission to us by mail. Return postage is guaranteed. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited. If you do not receive all pages or have any problems with receiving this transmission, please call.

MAY 21 2004

OFFICIAL  
9001D  
PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

David W. GERDT et al.

Appln. No.: 10/082,290

Group Art Unit: 2874

Filed: February 26, 2002

Examiner: J. Kang

For: SENSING APPARATUS EMPLOYING VARIABLE COUPLER  
FIBEROPTIC SENSOR

\* \* \*

RESPONSECommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed on May 10, 2004. In that Action, the Office asserted that the amendment to the claims filed on February 23, 2004 (presumably referring to Applicants' facsimile submission dated February 19, 2004) fails to comply with 37 C.F.R. § 1.121(c) as effective from July 30, 2003.

Applicants would respectfully note that the Preliminary Amendment included with their February 19, 2004 submission was merely a replacement copy of the Preliminary Amendment filed on June 6, 2003, the original having apparently been lost by the Office. The Preliminary Amendment fully complied with the rules in effect when it

was filed on June 6, 2003, and it was therefore entitled to entry at that time. The submission of a replacement copy, necessitated by the Office's loss of the original document, cannot invoke new rules that became effective after the original document was filed.

Accordingly, the Office's holding of non-compliance with 37 C.F.R. § 1.121(c) is unwarranted and should be withdrawn.

Applicants respectfully request that the Preliminary Amendment be promptly entered and returned to the Examiner for consideration on the merits.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been requested separately, then such extension is hereby requested.

Respectfully submitted,

By:

*Mitchell W. Shapiro*  
Mitchell W. Shapiro  
Reg. No. 31,568

MWS:jab

Miles & Stockbridge P.C.  
1751 Pinnacle Drive, Suite 500  
McLean, Virginia 22102-3833  
(703) 903-9000

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on May 21, 2004.

*Mitchell W. Shapiro*  
Mitchell W. Shapiro